

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION**

MIKAYLA EVANS,)	
)	
Plaintiff)	
)	
v.)	Case No. 2:24-CV-00106
)	
JOHNSON CITY et al.,)	
)	
Defendants)	

MOTION TO DISMISS JUSTIN JENKINS
IN HIS INDIVIDUAL CAPACITY
FED. R. CIV. P. 12(b)(1) and 12(b)(6)

The defendant, Justin Jenkins in his individual capacity, moves for dismissal of each and every claim asserted against him in the Second Amended Complaint, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). As more particularly argued in the memorandum in support of this motion, Jenkins submits the claims against him should be dismissed for the following reasons:

1. The Plaintiff lacks standing to assert any claim under 42 U.S.C. §1983.
2. Even if the Plaintiff has standing, the claims under 42 U.S.C. §1983 against Jenkins are still due to be dismissed because there is no constitutional right to a law enforcement investigation or to be protected from the crimes of third parties.
3. The Second Amended Complaint does not state a claim for a violation of the Plaintiff's right to equal protection.
4. The Plaintiff's claims under §1983 are barred by the statute of limitations.
5. Jenkins is entitled to qualified immunity.

6. Jenkins is immune from the negligence claims brought pursuant to the Tennessee Governmental Tort Liability Act (“TGTLA”).
7. The Plaintiff’s state law claims are barred by the statute of limitations.
8. The Plaintiff failed to properly plead a claim of fraudulent concealment.
9. Plaintiff fails to state a claim for intentional infliction of emotional distress.
10. The Plaintiff fails to state a claim for civil conspiracy.

NOTICE AND CERTIFICATION

Pursuant to the Court’s Order Governing Motions to Dismiss (Doc. 3), undersigned counsel hereby gives notice and certifies that prior to filing this motion and supporting memorandum, undersigned counsel conferred with Plaintiff’s counsel who advised that no further amendment to the current complaint would be forthcoming in response to the issues raised herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was filed electronically on February 3, 2025. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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